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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Georgia state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

Georgia Law

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Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Georgia law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents, however, may have violated Georgia law by leaving Carrie with Aimee. Ga. Code Ann. §16-5-70 (1992) which states that "(a) A parent . . . of a child under the age commits the offense of cruelty to children when he willfully deprives the child of necessary sustenance to the extent that the child's health or welfare is being jeopardized.

2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?

No. Georgia law requires individuals to be 21 years old to knowingly possess or purchase alcohol. Ga. Code Ann. §3-3-23 (1992). There are several exceptions where individuals under 21 may possess and/or consume alcohol: (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in Georgia; (2) At a religious ceremony; (3) When the parent or guardian of the person under 21 gives the alcohol to the person and when possession is in the home of the parent or guardian and such parent or guardian is present. Ga. Code Ann. §§3-3-23(b)&(c).

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Georgia law prohibits individuals from possessing, having under his/her control, manufacturing, delivering, dispensing, administering, purchasing, selling, and possessing with intent to distribute marijuana. Ga. Code Ann. §16-13-30(j)(1). Maria is arguably delivering marijuana since she is providing her roommates a vital link to their obtaining possession of the marijuana.

Maria could also be charged with conspiracy to commit a crime since she acted together with one or more persons in conspiring to commit the crime of purchasing and possessing marijuana. They did one or more overt acts in furtherance of the crime when Maria gave her roommates the name of the dealer. Ga. Code Ann. §16-4-8 (1992).

4. Have Adam and Alex broken any laws other than those against drinking and fighting?

In Georgia, the commission of an unlawful act when one causes the death of another human being without the intention to do so by the commission of an unlawful act other than a felony is involuntary manslaughter. Ga. Code Ann. §16-5-3 (1991).

Since the twins were fighting with Joe, an unlawful act not amounting to a felony, they could be charged with manslaughter, if not convicted. They could be charged with a less severe charge like simple assault which occurs either when (1) a person attempts to commit a violent injury to the person of another, or (2) a person commits an act which places another in reasonable apprehension of immediately receiving a violent injury. Since the twins, by fighting with Joe wanted to injure him subsection one of Ga. Code Ann. §16-5-20 (1991) has been met.

5. **Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?**

Jose, age 17, is serving as the designated driver and is not drinking according to the facts. He is likely not in violation of any Georgia law. However, depending on the location of the open alcohol in the automobile, he may be in violation of Georgia's open container prohibition. Ga. Code Ann. §40-6-253 (1992) defines open container as "any container which is immediately capable of being consumed from or the seal of which has been broken." The statute then goes on to state, "no person shall possess an open container of any alcoholic beverage while operating a vehicle in this state. For the purposes of this code section, an open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk or other locked nonpassenger area of the vehicle." County or municipal corporate ordinances can be more restrictive than this law, thus TJ and Carlos may be in violation of the law, depending where they are driving.

Carlos, age 22, able to legally drink. He, however, may be violating §3-3-23(a) if he gave alcohol to or assisted TJ, age 18, in attaining alcohol. TJ himself is in violation of subsection (b) of the same statute for knowingly possessing alcohol.

6. **Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?**

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Dr. Melrose's actions would further be in violation of Ga. Code Ann. §16-13-78.1 which requires one prescribing or ordering the dispensing of drugs who is licensed in Georgia to prescribe such drugs to act in the usual course of his professional practice and to prescribe or order such dangerous drugs for a legitimate medical purpose. Since Dr. Melrose has no legitimate medical purpose he is violation of Georgia law.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

It is illegal in Georgia for any person to possess or have under her control any controlled substance except as authorized in this article. Ga. Code Ann. §16-13-30(a) (1992). Since Danielle took pills from prescriptions that were not hers, she is in violation of the prohibition against unlawful possession of a controlled substance. Additionally, she is violating Ga. Code Ann. §16-8-2 which makes it unlawful for one to take unlawfully, possess or unlawfully appropriate any property of another with the intention of depriving him of the property regardless of the manner in which the property is taken or appropriated.

8. **Is Renee breaking any law even though she is not selling drugs herself?**

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. § 841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting

children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Georgia law makes it illegal for any person to manufacture, deliver, distribute, dispense, administer, sell or possess with intent to distribute any controlled substance. Ga. Code Ann. §16-13-30(b). Further, if one hires, solicits engages or uses an individual under 17 years, for any manner, for the purpose of manufacturing, distributing or dispensing, on behalf the solicitor, any controlled substance, she is in violation of Ga. Code Ann. §16-13-30(k) (1992). Renee's behavior will be further punished if it occurred within 1000 feet of school property. Ga. Code Ann. §16-13-32.4 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

Yes. Georgia law prohibits a person who is an HIV infected person who, after obtaining knowledge of being infected with HIV: "(2) Knowing allows another person to use a hypodermic needle, syringe, or both for the introduction of drugs or any other substance into or for the withdrawal of bodily fluids from the other person's body and the needle or syringe so used had been previously used by the HIV infected person for the introduction of drugs or any other substances into or for the withdrawal of body fluids from the HIV infected person's body and where that infected person does not disclose to the other person the fact of that infected person's being an HIV infected person prior to such use." Ga. Code Ann. §16-5-60(c)(2) (1991). Thus, if Jim knew he was HIV infected, did not tell Andre and shared his needle, he is in violation of the law.

Further, their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

10. **Has the bartender or owner of Bulldog's Bar & Grill violated any law?**

Yes. Georgia law prohibits the sale, barter, exchange, giving, providing or furnishing of an alcoholic beverage to any person who is in a state of noticeable intoxication. Ga. Code Ann. §3-3-22 (1992).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

Lesson 5

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for at least 25 years, and • fine of $1 million
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for at least 25 years, and • fine of $500,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for 2 to 15; years, and • fine of $50,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for at least 5 years, and • fine of $100,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for at least 10 years, and • fine of $200,000

Cite: O.C.G.A. § 16-13-30

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. What does DWI stand for?

DWI stands for driving while intoxicated.

2. What does DUI stand for?

DUI stands for driving under the influence. Under §40-6-391 of Georgia's Motor Vehicles and Traffic code a person can be convicted for DUI if s/he drives or is in actual physical control of any moving vehicle while under the influence of alcohol to the extent that it is less safe for the person to drive. A person is also guilty of DUI violation if the person's blood alcohol concentration (BAC) is 0.10 or more. If the person is under 18 and his/her BAC is 0.06 or more, at any time within three hours after driving or being in actual physical control of any car, from alcohol consumed before such driving or being in actual physical control of a vehicle, then s/he is in violation of §40-6-391.

3. In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?

Georgia law does not make any distinctions between DWI and DUI.

4. What are the penalties for being convicted of DWI? DUI?

Section 40-6-391, Motor Vehicles and Traffic, dictates the law for those over 16; § 40-5-22.1 dictates the laws for those 16 and under.

PERSON	CONVICTION	PUNISHMENT
Adult - over 16 years	first and second	• fine of $300 to $1000, and • jail for 10 days to 12 months
	third and subsequent	• fine of $1000 to $5000, and • jail for 3 to 12 months
Minor - 16 years and under	first	• unable to acquire learner's permit or license until reaching the age of 17, and • must complete a DUI Alcohol or Drug Use Risk Reduction Program
	second and subsequent	• unable to acquire a learner's permit or license until reaching the age of 18, and • must complete a DUI Alcohol or Drug Use Risk Reduction Program

5. What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?

The penalty for refusal to submit to a breathalyzer test if the person is under the age of 18 years old is suspension of his/her driver's license for one year or until s/he is 18, whichever is longer. If the person is over 18 his/her license is suspended for one year. §40-5-67.1 Motor Vehicles and Traffic.

6. What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?

Under §40-5-67.1 of Georgia's Motor Vehicles and Traffic regulations, a BAC of 0.06 or more for a person under age 18 will result in that person's license being suspended or right to drive being withheld for a minimum of one year or until s/he is 18, which ever is greater. If over 18, a BAC of 0.10 will cause him/her to lose his/her license for a year.

7. The legal limit for blood alcohol content is lower for persons under the legal drinking age of 21. True or False?

True. For those under 18 a BAC of 0.06 indicates legal intoxication; for those 18 and over a BAC of 0.10 is needed.

8. An open container of alcohol can be in your car if you are 21 or over. True or False?

False. According to § 40-6-253, no person shall possess an open container of an alcoholic beverage while operating a vehicle. An open container is any one from which it is immediately a beverage is immediately

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capable of being consumed or the seal of which is broken. The operator of the vehicle is in possession of the open container if the container is NOT in the possession of a passenger or it is NOT locked in the glove box, locked trunk or other locked, non-passenger area of the vehicle. A violation of this law can result in a fine of up to $200.

If a minor under the age of 21 is convicted of unlawful possession of alcohol while operating a motor vehicle his/her license will be suspended for at least 120 days.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NM (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.